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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/011,027      | 11/02/2001  | Laurent Scallie      | AC-001-US           | 7510             |

31955 7590 10/27/2005

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EXAMINER

JONES, SCOTT E

ART UNIT PAPER NUMBER

3714

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Sp

**Office Action Summary**

Application No.

10/011,027

Applicant(s)

SCALLIE ET AL.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03242005</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment and request for continued examination filed on March 24, 2005 in which applicant amends claims 1, 15, and 19 and responds to the claim rejections. Claims 1-5 and 7-20 are pending.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 24, 2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 7-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by i-O Display Systems H3D Terminator 3D Gaming Glasses.

i-O Display Systems H3D Terminator 3D Gaming Glasses discloses a system that creates a realistic 3-D game playing environment by plugging into the PC and existing 3D graphic card accelerator. The system, including lightweight stereoscopic glasses, converts the video monitor

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screen into a stereoscopic 3-D environment, where images -- including characters and shapes -- come to life before the player's eyes.

Several of the most popular PC video games are instantly supported by the system including Unreal Tournament, Tomb Raider, Star Wars, Need for Speed and Draken. The H3D Terminator also breathes new life into older classics such as Quake and Descent. The Terminator 3D glasses support a variety of graphics cards including those based on 3dfx and NVIDIA chipsets, and support DirectX(R), OpenGL(R) and Glide(R) game standards. The H3D Terminator has two models, wired or IR wireless.

H3D software drivers working with the Z axis depth information already available in nearly any modern DirectX, Glide or OpenGL game can create a stereo 3D image pair -- one image for your left eye and a slightly different image for your right eye. The H3D Terminator glasses ensure that each eye receives the proper signal. The combination left eye and right eye images for true depth perception cause virtual worlds to go from flat to almost real.

Additionally, the examiner cites the I-O Display Products Listing information in support of the article for the H3D Terminator 3D Gaming Glasses in order to physically show the various parts of the invention, such as, the glasses, software drivers, etc. Although the product literature was printed after the filing date of the invention, MPEP § 2124 allows for an exception of the rule in order to show that the characteristics of the prior art were known at the time of Applicant's invention.

#### ***Response to Arguments***

5. Applicant's arguments filed March 24, 2005 have been fully considered but they are not persuasive.

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6. Applicant's arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. In particular, Applicant provides an opinion about how the prior art works and an interpretation (opinion) about what the article means.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones  
Primary Examiner  
Art Unit 3714



SEJ